IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

MACA.No. 335 of 2004 (B)

OPMV.165/2001 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA
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APPELLANT/PETITIONER:

A.K.BABU, S/O. KUTTAPPAN,
EZHUMALIL HOUSE, PULINCUNNU P.O., KAYALPURAM,
ALAPPUZHA.

BY ADV. SRI.S.SUBHASH CHAND
SMT.SINDHU MURALEEDHARAN

RESPONDENTS: RESPONDENTS:

1. MURUGAN, S/O. AYYANE THEVAR,
H-1, 119 D-PALLAI STREET, NAGAIAGOWADAM PETTY,
UPMTK.

2. M/S. TVL HASTI FINANCE LIMITED,
B.O.-705-A, MUDURAI ROAD, 1ST FLOOR, THENI WEST.

3. NEW INDIA ASSURANCE COMPANY,
BRANCH, THENI, TAMIL NADU.

4. PETER JOSEPH,
VILANASSERY HOUSE, PERUMANNOOR, COCHIN-15.

5. NATIONAL INSURANCE COMPANY,
BRANCH, ERNAKULAM.

BY ADV. SRI.M.RAJAGOPALAN
SRI.RAJIT
SRI.ALEXANDER PETER
SRI.M.A.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON 10/09/2007 PASSED THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K.BASHEER, JJ.

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M.A.C.A.No.335 OF 2004

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Dated this the 10th day of September, 2007

JUDGMENT

Radhakrishnan, J

Claimant has filed this appeal claiming enhanced compensation for the injuries sustained by him in a road accident. Accident occurred on 17.12.2000 at 5.00 a.m. on the Changanacherry – Alappuzha road at Kidangara. The claimant was travelling in a tempo van bearing Reg.No.KL – 7/N.3472 from east to west and reached at the place of occurrence, a National permit Lorry bearing Reg.No.TN – 60/A 1510 was parked on the southern side of the road, and the driver suddenly started the lorry without any caution and hit on the left side of the tempo van causing injuries to the claimant. Claimant approached the Tribunal claiming a compensation of Rs.10,00,000/-. He got himself examined as PW1 and produced Exts.A1 to A11 documents. Ext.A10 is the certificate issued by the Orthopeadic Surgeon of the District Hospital, Alppuzha. That certificate indicates that he had sustained 70% disability.

Considering the oral evidence and other documents, Tribunal took the view that the claimant has suffered 50% disability and granted an amount of Rs.3,00,000 as compensation. Counsel appearing for the claimant submits that the amount awarded by the Tribunal is inadequate and there is no justification in reducing the percentage of disability to 50%. Learned counsel also submits that there is no reason to disbelieve the certificate issued by the Orthopeadic Surgeon of the District Hospital, Alppuzha. It is also submitted that he is now a living vegetable who was a sole bread winner of the family and for the rest of his life he has to depend upon his wife and others. The claimant was aged 32 years and his wife was aged 26 years. Ext.P12 certificate issued by the Orthopeadic Surgeon would indicate that due to paralysis to both lower limbs and loss of feelings below the groin and would not be able to lead a successful married life.

2. Considering the certificate issued by the doctor and other circumstances, we are of the view that there is no reason to reject the disability certificate. Taking into consideration of

the disability at 70%, we are inclined to award an amount of Rs.2,85,600/- towards permanent disability. For pain and suffering, no amount was awarded by the Tribunal. An amount of Rs.50,000/- is awarded on that head. We are inclined to grant the following amounts under the following heads:- Rs.10,000/- for medical bill; Rs.5,000/- for transportation; Rs.20,000/- for bystander; Rs.40,000/- for future treatment and Rs.1,00,000/- for loss of amenities. Thus, the claimant is entitled to get a total amount of Rs.5,10,600/- instead of Rs.3,00,000/-. Amount would be paid with interest at the rate of 6% from the date of the petition till payment.

This appeal is disposed of by modifying the award as above.

K.S.RADHAKRISHNAN, JUDGE

A.K.BASHEER, JUDGE

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